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HIGH COURT OF CHHATTISGARH AT BILASPUR

Single Bench : Hon'ble Shri Dilip Raosaheb Deshmukh, J.

Second Appeal No. 221/2007

Appellants Plaintiffs :

1.(a) Yawan Singh S/o Late Shri Bodhan Singh Gond, Aged about 28 yrs. R/o Village Patna (Junapara), Tahsil Baikunthpur

(b) Tulsi D/o Late Bodhan Singh Gond (W/o Kamlesh Singh) Aged about 25 Yrs. R/o Village Ajabnagar, Tahsil Surajpur, Distt. Surguja (C.G.)

(c) Neeta D/o Late Bodhan Singh Gond (W/o Mahendra Singh) Aged about 23 Yrs. R/o Village Paharpara, Ajabhnagar, Tahsil Surajpur, Distt. Surguja (C.G.)

(d) Raysingh S/o Late Bodhan Singh Gond, Aged about 22 Yrs. R/o Village Patna (Junapara) Tahsil Baikunthpur

(e) Dileshwar Singh S/o Bodhan Singh Gond, Aged about 20 Yrs. R/o Village Patna (Junapara) Tahsil Baikunthpur

2. Birjhu Singh, S/o Ahibaran Singh, Aged about 40 Yrs. Occupation Agriculturist.

3. Dalbir Singh S/o Late Late Ranjeet Singh, Aged 40 Yrs.

4. Manmati Widow Ranjeet Singh Gond, Aged about 60 Yrs.
All Resident of Village Patna Tahsil Baikunthpur, Distt. Korea (C.G.)

Versus

Respondents Defendants

1. Shivbalki (Kept wife/o Late Kawalsai @ Kawalsingh) Aged about 50 Yrs. R/o Village Patna, Tahsil Baikunthpur, Distt. Korea (C.G.)

2. State of C.G. Through Collector – Korea (C.G.)

Second Appeal Under Section 100 of Civil Procedure Code

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Present:-
Shri Prakash Tiwari, counsel for the appellants.
Shri Akhil Agrawal, Panel Lawyer for the State.

ORAL ORDER
(Passed on 25-06-2007)

Heard on admission.

2. This appeal is directed against the judgment and decree dated 3.3.2007 passed in Civil Appeal No. 32-A/2006 by the District Judge, Korea, Baikunthpur whereby the dismissal of the Civil Suit No. 19-A/2001 by Civil Judge, Class-II, Baikunthpur vide judgment and decree dated 10.8.2002 was affirmed.

3. Shri Prakash Tiwari, learned counsel for the appellants/plaintiffs did not dispute that the appellants could succeed only by showing from the record that Shivbalki was the mistress and not the legally married wife of Kawalsai. He did not dispute that Hindu Succession Act was not applicable to the parties in question.

4. Both the Courts below have recorded a concurrent finding that the parties in question are Gond and are not governed by Hindu Succession Act. Both the Courts below have also recorded a concurrent finding that Shivbalki – respondent No 1/defendant was the legally married wife of Kawalsai and as per custom prevalent in the community, she was entitled to 1/3rd share of the property left by Kawalsai. The above finding is based on proper appreciation of evidence by both the Courts below and is purely a finding of fact.

5. In that view of the matter, no substantial question of law arises for determination in this appeal, which is accordingly dismissed at the stage of admission.

6. I.A. No. 1 which is an application for temporary injunction is also dismissed.

There shall be no order as to costs.

Sd/-
Dilip Raosaheb Deshmukh
Judge